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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

In re COREY R., et al., Persons Coming
Under the Juvenile Court Law.

B261299

(Los Angeles County
Super. Ct. No. DK07851)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent.

v.

GISELLE S.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County. Stephen Marpet, Juvenile Court Referee. Affirmed.

Jamie A. Moran, under appointment by the Court of Appeal, for Defendant and Appellant.

Mark J. Saladino, County Counsel, Dawyn R. Harrison, Assistant County Counsel, and Tracey M. Blount, Deputy County Counsel for Plaintiff and Respondent.

Appellant and mother of dependent minors, Giselle S. (mother), appeals from a judgment of the juvenile court, challenging the sufficiency of the evidence to support the court's jurisdictional findings as to her. We conclude that dependency jurisdiction is supported by the unchallenged findings with regard to Santiago R. (father), and that mother's contentions are otherwise without merit. We thus affirm the judgment.

BACKGROUND

On December 10, 2014, minors Corey and Zelda, were declared dependents of the juvenile court after the court sustained counts j-1 and b-2 of a petition filed pursuant to Welfare and Institutions Code section 300 by the Department of Children and Family Services (DCFS or Department). Count j-1 alleged that father, while under the influence of methamphetamine and experiencing paranoid delusions while Corey was in his care, placed Corey in a detrimental and endangering situation. Count b-2 alleged that father was an abuser of methamphetamine, rendering him incapable of providing regular care for the minors, and that mother knew or reasonably should have known of father's substance abuse and failed to protect the minors, in that she allowed father to reside in the home and have unlimited access to the them.

The petition was filed after minors were detained following father's arrest on October 2, 2014. That day mother asked father to pick up Corey from school and to meet her at the bank. Father did not find mother at the bank, and believing she had been kidnapped, he left and called 911 several times. When the police located him, he was under the influence of methamphetamine, disoriented, hallucinating, paranoid, and wandering the streets with Corey, looking for mother. Father was arrested and Corey was released to mother. Father behaved erratically at the jail, became violent during the booking process, and punched, kneed, and kicked a jailer.

On October 15, 2014, the juvenile court ordered the minors detained and released to mother. Father was prohibited from residing in her home. During the children's social worker's (CSW) interview of mother prior to the detention hearing, mother reported that father's behavior had changed in recent weeks. He had become impatient, aggressive, and paranoid, thinking that people were spying on them. He also accused mother of

using drugs. Father demanded that mother take a drug test but refused to take one himself, although he admitted to having taken methamphetamine once. Mother told the CSW that father had confessed to using methamphetamine before they met eight years ago, but claimed he did not like it and would never try it again. A few days before the October 2, 2014 incident, father had not come home for a few days. When a friend came to the house looking for father, mother sent father a text message. Father replied that he could not talk to his friend because he was “tweaked out.”¹ Mother “then realized father was using drugs for a second time.” Upon his return, father told mother he had not slept the night before, but he gave her no explanation for his absence.

The CSW interviewed father at the jail six days after his arrest, at which time he said he began using methamphetamine due to depression caused by his wife’s infidelity. He claimed that he had used it only twice before, once the week before his arrest and again the day before his arrest. Father told the CSW that he thought the police were working with the people who had kidnapped his wife, and he could hear her crying in the next room. Father explained that his attack on the jailer at the police station on the day of his arrest was motivated by a need to go help his wife, because he heard her crying while being raped by a police officer. Father said he had spoken to a psychiatrist who he told he might be schizophrenic or bipolar.

The CSW interviewed mother again on December 4, 2014, and summarized the interview in the Department’s jurisdiction/disposition report. Mother told the CSW that although father had been acting paranoid, saying he heard voices for several days before his arrest, she did not suspect him of drug use, and thought he was just under stress due to financial problems. Mother claimed that father “had never used drugs before.” Mother and father both reported that they intended to remain legally married and were committed to each other.

¹ According to the Oxford English Dictionary, “tweaked out” is an American slang term meaning, among other things, being under the influence of methamphetamine. (See Oxford English Dict. <www.oed.com/view/Entry/207959?rskey=dciso6&result=3#eid> (as of July 31, 2015).)

At the adjudication/disposition hearing, father entered a written waiver of rights and admitted count j-1 in exchange for a dismissal of another count. Mother submitted to the court's jurisdiction, but asked that she be dismissed from count b-2. Mother presented no evidence. Her counsel argued that mother had not previously understood the signs of drug use, but had since attended NA meetings with father and could now recognize the behavior. The juvenile court denied mother's motion to dismiss the allegations against her, finding sufficient evidence to support the allegation that mother knew or should have known of father's substance abuse. Count b-2 was sustained as alleged. The court found by clear and convincing evidence that there was a substantial danger to the minors' physical and mental well-being and that reasonable efforts had been made to prevent their removal. The court ordered the children removed from father's custody and placed in the home of mother, with family preservation services. Counseling for both parents in addition to treatment, educational programs, and reunification services for father were also ordered. Mother filed a timely notice of appeal from the judgment.

DISCUSSION

Mother seeks reversal of the jurisdictional finding that she posed an ongoing risk to her children. In particular, she contends that substantial evidence did not support the allegation in count b-2 that she knew or should have known of father's drug use, and even if it did, substantial evidence did not support a finding that she posed a risk of future harm to her children.

A child is subject to the jurisdiction of the juvenile court if he or she "has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent . . . to adequately supervise or protect the child." (§ 300, subd. (b)(1).) The elements of such a "failure to protect" provision are (1) neglectful parental conduct; (2) causation; and (3) serious physical harm or illness or a substantial risk of serious physical harm or illness. (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.)

The challenged findings were not the only basis for the juvenile court's jurisdiction. Count b-2 alleged that father was an abuser of methamphetamine, rendering him incapable of providing regular care for the minors, and count j-1 alleged that he had been under the influence of methamphetamine and experiencing paranoid delusions while six-year-old Corey was in his care, thereby placing Corey and his younger sister, Zelda at risk of physical harm, damage, and danger. It is unnecessary to reach mother's substantial evidence claims, as father admitted the allegations and has not appealed from the judgment. Unchallenged findings as to one parent are sufficient to support dependency jurisdiction. (*In re Alysha S.* (1996) 51 Cal.App.4th 393, 397.) The purpose of dependency jurisdiction is to protect the child, not to punish the parent. (*In re La Shonda B.* (1979) 95 Cal.App.3d 593, 599.) Thus, if only one parent's conduct created a risk of harm, the children would remain dependents of the juvenile court (*In re X.S.* (2010) 190 Cal.App.4th 1154, 1161), and a substantial evidence analysis would be merely an academic exercise.

Nonetheless, we do have discretion to reach the merits of a challenge to a jurisdictional finding if the finding served as the basis for challenged dispositional orders or if it could have future prejudicial consequences. (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762-763.) However, mother does not challenge the juvenile court's dispositional orders and does not suggest what potential prejudicial consequence she might suffer unless we reach the merits of her substantial evidence challenge. More importantly, mother does not ask that we exercise discretion. Instead, citing *In re A.G.* (2013) 220 Cal.App.4th 675, 683-686 (*A.G.*), mother contends that her claims of error should be reached, as "dependency jurisdiction is not preferred where one of two parents is able to properly care for the children." There is nothing in *A.G.* that would require review or reversal of a single factual finding as to one parent. The appellate court in that case held that dependency jurisdiction was not proper in what was essentially a custody conflict between a mentally ill noncustodial parent on the one hand and a fit custodial parent on the other, and thus remanded the matter to family court. (See *A.G.*, at pp. 682-

687.) The instant case is not a custody battle. Both parents told the CSW that they were committed to staying together.

Thus, we need not undertake a substantial evidence review of the jurisdictional findings as to mother. Furthermore, mother has not met her burden to show that the finding or order is unsupported by substantial evidence. (See *In re L. Y. L.* (2002) 101 Cal.App.4th 942, 947 [appellant's burden].) While mother acknowledges that the evidence must be considered in the light most favorable to the prevailing party and that all conflicts must be resolved in support of the juvenile court's order (See *In re Autumn H.* (1994) 27 Cal.App.4th 567, 576), her analysis consists primarily of a summary of all the evidence which could give rise to the inference that mother's failure to recognize the signs of father's drug use was reasonable, such as her inexperience with drugs, the absence of domestic violence or a criminal history for either parent, father's claim of methamphetamine use on only two or three occasions and then not at home, and facts bolstering mother's credibility.

It is not our task to draw inferences that would defeat the juvenile court's jurisdictional findings, but to ““draw all reasonable inferences from the evidence to support the findings and orders of the dependency court.”” [Citation.]” (*In re I.J.* (2013) 56 Cal.4th 766, 773.) “We have no power to judge the effect or value of the evidence, to weigh the evidence, to consider the credibility of witnesses or to resolve conflicts in the evidence or the reasonable inferences which may be drawn from that evidence. [Citations.]” (*In re Casey D.* (1999) 70 Cal.App.4th 38, 52-53.) Indeed, we look only to the evidence supporting the prevailing party, and may disregard the contrary showing altogether. (*In re I.W.* (2009) 180 Cal.App.4th 1517, 1527.)

A review of the whole record in the light most favorable to the findings reveals substantial evidence from which the juvenile court reasonably inferred that mother should have known of father's drug abuse. In her interview with the CSW on October 3, 2014, mother's statements suggest her suspicion that father was using drugs with friends outside their home; recent changes in behavior, such as displays of impatience, an aggressive attitude, and paranoia, and accusing mother of drug use. Further, although

father admitted to using methamphetamine in the past, he demanded that mother take a drug test while refusing to take one himself. Also, just days before father's arrest he did not come home for a few days, and replied to mother's text message by saying that he was "tweaked out." Mother "then realized father was using drugs for a second time."

Mother argues that the statement in the Department's detention report that she *then* realized that father was using drugs meant that mother's realization occurred during her interview with the CSW on October 3, 2014. In the paragraph in which that statement is found, the CSW routinely paraphrased mother's statements either with or without the preface, "she stated" or "she reported." The juvenile court either drew the reasonable inference from the CSW's writing style that mother had in fact admitted that she realized the implication of father's behavior at the time he used the term, "tweaked out," or the court disbelieved mother's suggestion that she only realized in the interview that the term "tweaked out" meant that he had been under the influence of methamphetamine. In either case, we have no power reject the juvenile court's reasonable inference or reconsider the court's credibility finding. (*In re Casey D.*, *supra*, 70 Cal.App.4th at pp. 52-53.)

The juvenile court also apparently disbelieved mother's statements to the effect that although father was not usually paranoid, she did not suspect he was using drugs, that she did not know the symptoms of someone under the influence of methamphetamine, and that father had never had "this issue with drugs" during their nine-year marriage. The court's disbelief was understandable, given the damage to mother's credibility by her contradictory statement, made to the CSW prior to the jurisdiction/disposition hearing, that father "had never used drugs before," although mother had previously admitted knowing of father's past methamphetamine use.

We conclude that substantial evidence supports a finding that mother knew or reasonably should have known that father was abusing methamphetamine and that mother failed to protect the children from danger, in that she allowed father to reside in the home and have unlimited access to the children. We also conclude that jurisdiction was proper based upon the unchallenged counts alleged against father.

DISPOSITION

The judgment is affirmed.

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_____, J.
CHAVEZ

We concur:

_____, P. J.
BOREN

_____, J.
HOFFSTADT